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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,768

01/10/2005

Arie Draaijer

2004-010132

2931

466

7590

01/13/2006

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EXAMINER

ST CYR, DANIEL

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,768

Applicant(s)

DRAAIJER ET AL.

Examiner

Daniel St.Cyr

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2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-14 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

1. Response to the applicant amendment filed 10/27/05 in which claims 13 and 14 were added.

Specification

2. The specification of the disclosure is objected to because the continuation data is missing, it should be inserted in the first page of the specification, following the title. Correction is required.

Claim Objections

3. Claim 7 is objected to because of the following informalities: line 2, "it" should be changed to --the optical reading device--; and what is consider a standard microtitre. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7-11, 13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Osmo et al, WO 82/00356, cited by the applicant.

Osmo discloses an analyzer for the measurement of the properties of reaction mixtures comprising: a housing for receiving a test plate 10 on which, according to a fixed pattern, further test substances can be provided, which reading device 9 comprises light coming from a test substance into a measuring signal which corresponds to a predetermined parameter of the test

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substance, optical conversion elements 11 for converting characterized that the optical conversion elements comprise light-receiving areas configured in a pattern which corresponds to the pattern of the test plate (see fig. 1).

Re claim 2, the base plate can be coupled to a test plate for providing direct optical contact between the optical conversion elements and test substances on the test plate. (see figure 1).

Re claim 3, coupling means are inherently there for coupling the test plate on the base plate (fig. 1).

Re claim 4, the number of conversion elements is equal to the number of test positions on the test plate to be read (they simultaneously being read). (see the abstract).

Re claim 5, Osmo measures properties of reaction mixtures, the reference is capable of registering light coming from a chemo-optical substance, the substance properties including degree of concentration.

Re claim 7, the microtitre of Osmo meets the claimed "standard microtitre plate" so the that reading device can be included in the incubator (see figure 1).

Re claim 8, the light source is position adjacent to the light receiving areas, the light source emits light away from the light receiving area (see figs. 1-2).

Re claim 9-11, 13 and 14, their limitations have been met above.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Osmo et al. The teachings of Osmo et al have been discussed above.

Osmo et al fail to disclose or fairly suggest a gas-tight fitting cover for covering the substance. However, having a cover for covering measured substance is known in the art for preventing contamination. With regard to having a gas-tight fitting cover, such limitation falls within engineering design choice for meeting customer requirements.

It would have been obvious for an artisan at the time the invention was made to modify the teachings of Osmo et al to include cover the substance. Such modification would secure the substance from any environmental contamination, wherein a gas fitting would apply if require by the specific test and the environment condition. Therefore, it would have been an obvious extension as taught by Osmo et al.

Allowable Subject Matter

8. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: Although the prior art of record teaches an optical reading device which includes housing for receiving test plates for measuring the substance therein, the reading device has light conversion elements having light receiving areas configure in a pattern corresponds to the pattern of the test plate, the prior art of record fails to disclose that optical sensitive element are designed for registering light coming a chemo-optical substance, wherein the optical element register a half

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life of fluorescent light. These limitations in conjunction with other limitations in the claims were not shown by, would not have been obvious over, nor would have been fairly suggested by the prior art of record.

Conclusion

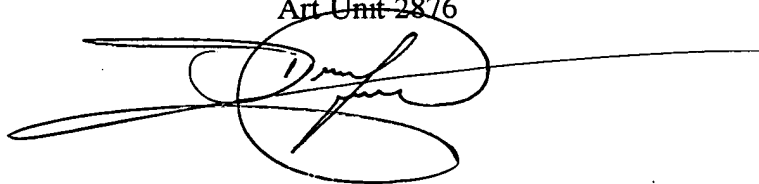
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 571-272-2407. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel St.Cyr
Primary Examiner
Art Unit 2876

DS
January 9, 2006

A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a circular stamp. The signature is fluid and cursive, with a long horizontal line extending to the right.